

DOCUMENT RESUME

02982 - [A2013087]

[Protest to Solicitation Specifications]. B-188146. July 13, 1977. 2 pp.

Decision re: Potomac Industrial Trucks, Inc.; by Paul G. Dembling (for Elmer B. Staats, Comptroller General).

Issue Area: Federal Procurement of Goods and Services (1900).

Contact: Office of the General Counsel: Procurement Law II.

Budget Function: National Defense: Department of Defense - Procurement & Contracts (058).

Organization Concerned: Department of the Navy: Naval Regional Procurement Office, Washington, DC; Roach Manufacturing Corp.

Authority: B-188146 (1977).

Protester reinstated protest on basis that specifications of similar prior contracts to awardee were modified after award with advantageous increases in price. Even if that were the case, it was not a sufficient basis to conclude that specifications of the instant procurement would be manipulated to contractor's advantage and inimical to competition. (Author/DJM)

3087  
02982

**DECISION**



JAD:Kse  
P.L. II

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-188146

**DATE:** July 13, 1977

**MATTER OF:** Potomac Industrial Trucks, Inc.

**DIGEST:**

Even if GAO could conclude that administration of similar prior contracts permitted contractor to manipulate specifications to its advantage, that is insufficient basis to conclude that instant specifications will be manipulated to contractor's advantage and in derogation of competitive bid system.

On the basis of newly acquired information, Potomac Industrial Trucks, Inc. (Potomac) has reinstated its protest relative to any contract award to Roach Manufacturing Corporation (Roach) under IFB N00600-76-B-0082, issued by the Naval Regional Procurement Office, Washington, D.C., for a power conveyor system at the Naval Supply Center, Oakland, California.

This solicitation was the subject of a prior protest by Potomac which we dismissed essentially because it failed to state a basis upon which the validity of any award could be challenged in this Office. See Potomac Industrial Trucks, Inc., B-188146, January 21, 1977, 77-1 CPD 45. Insofar as our prior decision relates to the current allegation that Roach unjustifiably benefited from modifications after award of similar prior contracts with the Government, we pointed out that such modifications are matters of contract administration and are not for determination by this Office. In addition, we noted with respect to the fact that Roach submitted a comparatively very low price, that a wide range in bid prices may suggest that bidders have submitted offers based upon disparate interpretations of an agency's requirements but that fact, of itself, does not establish an issue upon which a protest may be pursued.

Potomac has reinstated its protest on the basis that it has newly acquired information relating to the adequacy of the solicitation's specifications. Potomac

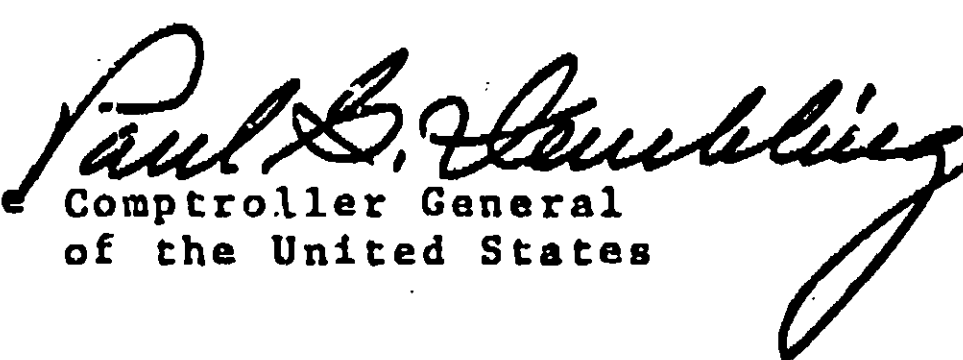
B-188146

has detailed its objections regarding instances in past procurements of similar systems resulting in contract modifications and increased prices which, in Potomac's opinion, were self-generated by Roach and were both substantial and unjustified in amount.

It is argued that "this pattern is being repeated in the [instant] solicitation \* \* \*." Essentially, Potomac calls on us to review the adequacy of the administration of Roach's prior contracts. In the event we find fault with those determinations, Potomac would have us further assume that Roach similarly will be able to manipulate the specifications in this case. However, even if we found that the administration of Roach's prior contracts was inadequate, this is not enough to call into question the adequacy of the instant competition. A causal or necessary connection between the prior contract occurrences and the instant specifications has not been demonstrated notwithstanding the protester's assertions to the contrary.

While it is the Navy's position that the modifications of prior contracts and price adjustments neither have nor will work to undermine the competitive bid system, the agency advises that in future procurements of this type it intends to utilize competitive negotiation or two-step procurement techniques.

Accordingly, the protest is denied.

  
For the Comptroller General  
of the United States